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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,251	03/22/2004	Charles L. Compton	CCCI 0135 PUS	1926

50764 7590 09/11/2006

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EXAMINER	
BELIVEAU, SCOTT E	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/806,251	COMPTON, CHARLES L.	
	Examiner	Art Unit	
	Scott Beliveau	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/22/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 24, 27, 29, and 33 are objected to because the claims comprise extraneous brackets ("{}"). Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-22, 24, and 26-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US Pub No. 2003/0149988 A1).

Regarding claim 1, the Ellis et al. reference discloses a "content storage method for use in a content distribution network . . . [that] provides broadcast video programming over the network to a plurality of users in accordance with a broadcasting schedule" (Figure 2). The method comprises "establishing a personal file locker on the network for a user, the file locker including network storage space allocated for personal use by the user" (Para. [0081] - [0083]), "establishing a content-storage-request database for tracking requests by the user for placing broadcast video programs into the user's file locker for personal use by the user", and upon the broadcasting of a video program for which there exists a request by the user to place the video program into the user's file locker, storing that video program in the user's file

locker" (Figure 4; Para. [0084] - [0093]). The system subsequently "makes the stored video program available to the user for viewing" (Figures 11 and 18; Para. [0125] - [0126] and [0145] - [0157]).

Regarding claim 2, the 'personal file locker' is a logical 'construct' which has been 'established' on a 'file-locker database' as particularly claimed (Figure 4; Para. [0082] – [0083]).

Regarding claims 3-5 and 7, the claimed limitations are directed towards the particular management of 'pointers' and the tracking of requests. These limitations are met particularly in view of Figures 4-5 and the aforementioned cited passages.

Regarding claim 6, the particularly claimed method associated with 'deleting' pointers is similarly met in view of the teachings of Ellis et al. (Para. [0167]).

Regarding claim 8, Ellis et al. discloses 'authenticating' users and their associated requests to view stored content (Para. [0161]).

Regarding claim 9, Ellis et al. discloses the particular usage of the claimed 'trick play' operations in association with accessing recorded content (Para. [0162]).

Regarding claims 10-18, the claims respectively correspond to claims 1-9. These claims are similarly met in light of the previously cited passages and the fact that the Ellis et al. reference discloses the particular usage of 'computer instructions executable by a computer' (Para. [0077] - [0078]).

Claims 19 and 20 generally correspond to claims 1 and 10 respectively wherein the Ellis et al. reference further is utilized and establishes 'personal file lockers' for a plurality of users (Para. [0081]).

Regarding claim 21, the Ellis et al. reference discloses a "method for time-shifted viewing of content for use in a content distribution network . . . [that] delivers a plurality of broadcast video programs over the network to a plurality of users in accordance with a broadcasting schedule" (Figure 2). The method comprises "allocating a remote personal storage resource on the network for a user" (Para. [0081]), "receiving a request by the user for storage of a desired one or more of the broadcast video program" and "only if said request is received no later than a scheduled broadcast of the desired program, in response to the request automatically storing the desired video program in the user's remote personal storage resource upon scheduled broadcasting of the desired video program" (Para. [0084] - [0089]. The system subsequently "automatically makes the stored video program available to the user for viewing at a subsequent time specified by the user" (Figures 11 and 18; Para. [0090] - [0091], [0125] - [0126] and [0145] - [0157]).

Regarding claim 22, the Ellis et al. reference discloses the establishment of a quantity limit regarding the amount of total content stored in the remote personal storage resource (Para. [0081]).

Regarding claim 24, the Ellis et al. reference similarly discloses establishing storage limits relating to the stored content including an expiration date associated with the stored content (Para. [0169]).

Regarding claim 26, the Ellis et al. reference discloses the ability to record entire television series (Para. [0133]).

Regarding claims 27 and 28, the Ellis et al. reference discloses that the content distribution architecture includes a packet-switched network architecture such as that corresponding to a digital cable television, satellite, or telephone network (Para. [0065]).

With respect to claim 29, the claim appears to be combination of previously addressed elements. In particular, the Ellis et al. reference discloses a "method for providing personal video recorder ("PVR") functionality a user via a content distribution network" (Figure 2). The method comprises "receiving a request by the user for storage of a desired video content" and "in response to the request and only upon the scheduled telecast of the desired content, and only if the user is one of the viewers who is entitled to receive the desired program at the time of the scheduled telecast" (Para. [0138]) "storing the desired content in a remote network-based storage facility for the user" (Para. [0084] - [0089]). The system subsequently "makes the stored content available to the user over the network with viewing functionality including at least one or more PVR features selected from: time-shifted viewing, pause, rewind, fast-forward" (Para. [0162]).

Regarding claim 30, the Ellis et al. reference discloses that the user is operable to record a program in progress as claimed (Para. [0165]).

Regarding claim 31, the Ellis et al. reference discloses that the system is operable to perform 'rolling storage' as claimed (Para. [0162]).

Regarding claims 32 and 33, the Ellis et al. reference discloses that the system further facilitates non-real time or time-shifted display of content during the scheduled broadcast including the claimed viewing modes (Para. [0165]).

Regarding claims 34 and 35, the Ellis et al. reference as previously discussed discloses a "network based personal video recording system" (Figure 2). The system comprises a "network-based storage resources, configured to store desired programming in response to a remote user's electronic request" [24] and a "content distribution network configured to deliver the stored desired programming to the user" [20]. The system "automatically performs said storing and delivering of the desired programming under the interactive control of the requesting user" thereby "without a need for legal permission from a copyright owner of the desired programming to perform said storing and distributing" given that the method is "performed in a manner intended to qualify as fair use under copyright law" since the particular recording/playback operation is performed under the direction of the user (Para. [0084] - [0091]).

Regarding claims 36 and 37, the claims appear to be substantial duplicates of claims 1 and 10 respectively and are similarly met in light of the Ellis et al. reference as previously discussed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US Pub No. 2003/0149988 A1)..

In consideration of claims 23 and 25, the Ellis et al. reference discloses flexibility with respect to established limits; however, the reference is silent with respect to "charging the user a fee in exchange for raising one or more of said limits". The examiner takes OFFICIAL NOTICE as to the practice of charging of fees increasing of established limits. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to "charge the user a fee in exchange for raising one or more of said limits" for the purpose of providing a means to obtaining additional revenue (and associated profit) in exchange for the increased usage (and associated expense) of utilizing system resources.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

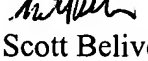
- The Thomas et al. (US Pub No. 2002/0059621 A1) reference discloses a system and method for providing personal storage of video content on a remote server.
- The Sheedy (US Pat No. 7,017,174 B1) reference discloses a system and method for providing a central recorder in an interactive broadcast television network.
- The Swain et al. (US Pub No. 2001/0047516 A1) reference discloses a system and method for the time sift recording utilizing a remote server.

- The Basso et al. (US Pub No. 2002/0124262 A1) reference discloses a system and method for enabling a network based replay portal which enables subscribers to record and playback media having been remotely recorded.
- The Rosetti et al. (US Pub No. 2005/0022242 A1) reference discloses a system and method for enabling a network based personal video recorder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Beliveau
Primary Examiner
Art Unit 2623

SEB
September 7, 2006